

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2028 - SB 2090

March 7, 2016

SUMMARY OF BILL: Requires a court to consider various factors (e.g., impulsivity and immaturity; intellectual capacity; and age at the time of the offense) when determining the appropriate sentence to impose on a person who was less than 18 years of age at the time of the offense.

Authorizes a court to reduce any term of imprisonment imposed upon an inmate convicted as an adult for crimes committed before the inmate's 18th birthday to time served or any other sentence so long as the sentence is less than the original sentence imposed. The court may impose the new sentence even if it is lower than the statutory minimum sentence for a particular offense if (1) the inmate has served 15 calendar years in prison for offenses that the inmate was convicted of as an adult and were committed prior to the inmate's 18th birthday; and (2) the court finds that the inmate does not pose an unreasonable risk of danger to the safety of any person or the community and that the interests of justice warrant a sentence modification.

Authorizes an inmate to petition the court, in the form of a motion, for a reduction in the sentence imposed. If the first petition is not granted, subsequent petitions may be filed every five years, but no more than four petitions may be filed by one inmate.

Requires the Department of Correction (DOC) to notify the inmate, the district attorney general, and the district public defender of any inmate who has served 14 calendar years in prison for crimes that the inmate was convicted of as an adult and were committed before the inmate's 18th birthday.

Entitles the inmate to legal representation, and requires a court to hold a hearing on the petition.

Prohibits a sentence of imprisonment for life without the possibility of parole to ever be imposed upon anyone convicted as an adult who was less than 18 years of age at the time the offense was committed, even if the offense could be punished by imprisonment for life without the possibility of parole.

ESTIMATED FISCAL IMPACT:

Decrease State Expenditures – \$2,500/Incarceration*

Assumptions:

- The DOC indicates that approximately 147 inmates are currently in DOC's custody that were convicted of crimes committed when the inmates were less than 18 years of age and who had sentences imposed greater than 15 years.
- Not all of these will be eligible to petition in the first year. It is assumed that all would within five years. It is assumed that the bill will result in 30 petitions each year, or approximately one petition per judicial district.
- It is assumed that the marginal increase to the courts, district attorneys, and public defenders' caseloads can be accommodated within their existing resources.
- The Administrative Office of the Courts confirms that it can accommodate the impact of the bill within its existing resources.
- The bill is likely to decrease state incarceration costs not only for the authority to petition for a reduced sentence, but also for prohibiting the imposition of imprisonment for life without the possibility of parole against any juvenile tried as an adult.
- There is insufficient data and too many unknown variables (e.g., how often a judge would grant the petition/motion for reduced sentence, the average time served by a juvenile tried as an adult, the average reduction in time served per granted petition, and other variables) to specifically estimate the decrease in state incarcerations relative to authorizing a petition for reduced sentences established under the bill.
- There is insufficient data and multiple unknown variables (e.g., how many juveniles are sentenced to imprisonment for life without the possibility of parole each year, the life expectancy of a juvenile in prison, and other variables) to specifically estimate the decrease in state incarcerations relative to prohibiting the imposition of imprisonment for life without the possibility of parole against any juvenile tried as an adult.
- However, it is reasonable to assume that at least one person every 10 years will serve at least one year less than the person would serve under current law.
- According to the DOC, the average operating cost per offender per day for calendar year 2016 is \$67.73.
- The bill will decrease state incarceration costs by an annualized total of \$2,473.84 $[(\$67.73 \times 365.25) / 10]$.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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